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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/796,171      | 03/10/2004  | Dean E. Cropper      | CRP002              | 3497             |

7590 04/18/2006  
Ronald C. Harris, Jr.  
2830 South Meade Street  
Arlington, VA 22206

EXAMINER

PHAM, HUONG Q

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3764

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/796,171             | CROPPER, DEAN E.    |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Huong Q. Pham          | 3764                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/10/2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Drawings***

The informal drawings of figure 1-7 are not of sufficient quality to permit adequate examination. For example, note that the details of the structure of the medial tracking member 40, 110, slot 112, member 200, 230, etc. are unclear. Accordingly, replacement drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to this Office action. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15-16, 19-21, 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Labour et al ( 4,445,505).

Labour et al teaches every claimed feature of the claims including an inward elastic tracking member 80 that operatively fits over, and provides inward pressure

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against, a patella , wherein the inward tracking member 80 is capable of providing a compressive force against the patella. As for claim 19, note that the inward tracking member 80 of Labour et al is adjustable to increase or decrease an amount of inward pressure. As for claims 20-21, note that the inward tracking member 80 of Labour et al is capable of providing the recited functions .

Claims 1-8, 14- 21, 26- 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Lehman ( 3,804,084).

Lehman clearly teaches every claimed feature and steps of the claims 1-8, 14-21, 26-29 including a medial tracking member 60, 62, an inward tracking member 90. Note that the medial tracking member 60, 62 and the inward tracking member 90 of Lehman are capable of providing the functions recited in claims 1-8, 14-21, 26-29.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1- 14, 17- 18, 22-25, 27- 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cawley et al ( 6,551,264) in view of Labour et al ( 4,445,505).

Cawley et al teaches a knee orthosis comprising a medial tracking member 76, 74, 78, 80 ( figure 1) that operatively fits along a lateral side of, and capable of providing medial traction to a patella having patellofemoral adicular tissue. Labour et al teaches an elastic inward tracking member 80 that operatively fits over, and provides inward pressure against the patella, wherein the inward tracking member provides a compressive force against the patella. In view of the teaching of Labour et al, it would have been obvious to one ordinary skill in the art at the time the invention was made to provide an inward tracking member for the device of Cawley et al in order to provides a compressive force against the patella. As for claims 2, 4-8, note that the inward tracking member of Labour et al is capable of providing the recited function. As for claims 9- 10, note that figure 5 of Cawley et al. As for claim 11, note in figure 4 of Cawley et al that members 78, 80 are operatively looped through a ring 110, 112 that is aligned substantially parallel to a hinge axis. In view of this teaching of Cawley et al, it would have been obvious to one ordinary skill in the art at the time the invention was made to loop an inward tracking member through a ring 110, 112 that is aligned substantially parallel to a hinge axis of the device of Cawley et al in order to secure the two members together. As for claim 12, note the 44 of Cawley et al. As for clam 13, note the raised member 74 of Cawley et al ( figure 1). As for claim 27-29, note that the device of Cawley et al and Labour et al in combination teach the recited steps.

Claims 9-13, 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehman ( 3,804,084) in view of Cawley et al ( 6,551,264).

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Note the comments above for the teaching of Lehman. Cawley et al teaches a knee orthosis with bicentric hinge ( note figure 5 of Cawley et al) , members 78, 80 that are operatively looped through a ring 110, 112 that is aligned substantially parallel to a hinge axis. In view of this teaching of Cawley et al, it would have been obvious to one ordinary skill in the art at the time the invention was made to provide the device of Lehman with a support having bicentric hinge for stabilizing the knee joint, and to loop the inward tracking member 90 through a ring that is aligned substantially parallel to a hinge axis in order to secure the two members together.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huong Q. Pham whose telephone number is (571) 272-4980. The examiner can normally be reached on 7:15 AM - 3:45 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on ( 571) 272 - 4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 14, 2006

A handwritten signature in black ink, appearing to read "Michael A. Brown", with a long horizontal flourish extending to the right.

**MICHAEL A. BROWN  
PRIMARY EXAMINER**